

**MINUTES OF THE
UTAH TAX REVIEW COMMISSION**

Friday, May 11, 2007 – 1:00 p.m. – Room 125 House Building

Members Present:

Mr. M. Keith Prescott, Chair
Mr. David Crapo, Vice Chair
Mr. Larry Barusch
Mr. Mark K. Buchi
Dr. Gary Cornia
Rep. John Dougall
Sen. Brent Goodfellow
Rep. Wayne Harper
Sen. Lyle W. Hillyard
Ms. Kathleen Howell
Mr. Bruce Jones
Mr. Dixie Leavitt
Rep. Rosalind J. McGee

Members Absent:

Ms. Janis A. Dubno
Comm. Bruce Johnson
Sen. Wayne L. Niederhauser

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Leif G. Elder, Research Analyst
Mr. Bryant R. Howe, Assistant Director
Ms. Angela D. Oakes, Associate General Counsel
Ms. Rebecca L. Rockwell, Associate General Counsel
Ms. Phalin L. Flowers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. TRC Business

Chair Prescott called the meeting to order at 1:07 p.m.

2. Sales and Use Tax Exemptions to Review in 2007

Ms. Rockwell distributed and discussed "Sales and Use Tax Exemptions by Category." She explained that the document organizes the 68 sales and use tax exemptions into 21 categories. It also highlights the 33 exemptions that existed in 2001 that have not been reviewed by the TRC between 2001 and the present. She said the TRC is required to study each sales and use tax exemption created by Utah Code Ann. § 59-12-104 one or more times every eight years, so the 33 exemptions would need to be reviewed by the end of the 2009 interim to remain in compliance with the study requirements.

Mr. Howe distributed and discussed a packet of information containing possible criteria for studying sales and use tax exemptions, including a copy of Utah Code Ann. § 59-12-104.5 that requires the TRC to study the sales and use tax exemptions.

Dr. Cornia said that the statute is clear that the TRC is obligated to review sales and use tax exemptions. He said that there may not be enough time to study each exemption in detail but that it might be feasible using a policy oriented approach.

Chair Prescott said that discussions concerning sales and use tax exemptions often focus excessively on details and leave the larger policy issues undiscussed. He said the statute may need to be amended to change how sales and use tax exemptions are studied and reviewed by the TRC.

Ms. Rockwell agreed that changing the statute may be necessary if the TRC desires to adopt a policy oriented approach to studying the exemptions. She said that the current statute requires the TRC to review each exemption and to report to the governor and to the Revenue and Taxation Interim Committee.

Rep. Dougall said that as House Chair of the Revenue and Taxation Interim Committee, he would welcome a study that focuses on broad policy aspects rather than on the details of each exemption.

Rep. Harper asked what is the goal of changing how sales and use tax exemptions are studied. Chair Prescott replied that it is to ascertain what is good tax policy and to stay focused on that policy, rather than to focus exclusively on less important details.

Mr. Leavitt agreed that a new approach for studying sales and use tax exemptions is needed. He suggested informing legislative leadership to determine if there is support for such a change.

Sen. Hillyard said that the statute clearly requires the TRC to study each sales and use tax exemption. However, the statute does not specify the length of time that the TRC must devote to the study of each exemption. Ms. Rockwell said that while it is important for the TRC to review each exemption against the statutory criteria, the amount of time that each review occupies is at the discretion of the TRC.

Sen. Hillyard suggested reviewing two or three sales and use tax exemptions each month. He said that while the TRC has discretion as to how the review is conducted, it is important for the TRC to comply with the law. He also said that a broader study could occur after the statute is amended during the next General Session.

Rep. McGee said that there should be time for public input as part of a study of the sales and use tax exemptions. She also asked for enough time to understand the principles required to study each exemption.

Mr. Howe asked if it would be helpful to have a small working group study materials provided by staff and draft a set of principles that could be considered by the TRC. He also asked if the TRC prefers to adopt principles before starting the review process or if principles should be adopted as the review progresses.

Mr. Buchi said studying business input exemptions first would accomplish a lot of work at once. He said that he also supports the establishment of a working group to adopt principles. This working group should report to the TRC on its recommendations and the basis for its recommendations.

Chair Prescott suggested that the working group provide the TRC with a draft of the core principles for studying sales and use tax exemptions and a grouping of exemptions that would be included under each principle. He also said that the work would need to be done before the next meeting so that the TRC could begin its deliberations.

Sen. Hillyard suggested that the TRC add studying criteria for income tax credits.

MOTION: Mr. Leavitt moved to create a working group to: (a) draft core principles for studying sales and use tax exemptions; and (b) organize sales and use tax exemptions by category. The motion passed unanimously.

The membership of the working group will be Mr. Buchi, as chair, Dr. Cornia, Rep. McGee, Rep. Dougall, and Sen. Niederhauser.

3. State Tax Revenue Volatility and State Rainy Day Funds

Dr. Andrea Wilko, Fiscal Analyst, Office of the Legislative Fiscal Analyst, distributed and discussed "Revenue Estimating, Rainy Day Funds, and Other Tools for Managing Revenue Volatility." She spoke to the TRC concerning the revenue estimating process, economic indicators that are used in forecasting, and state, federal, and other data sources used in revenue estimating.

Mr. Jonathan Ball, Deputy Director, Office of the Legislative Fiscal Analyst, discussed how the Legislature and executive branch respond to revenue shortfalls. He also explained what bond rating agencies consider to be adequately sized rainy day funds and distributed "Rainy Day Funds," which discusses rainy day funds in other states. Rainy day funds are formally designated as budget reserve accounts.

Mr. Dean distributed and discussed "Rainy Day Funds - Potential Study Issues." He reviewed several policy issues regarding the state's rainy day funds and potential statutory clarifications.

Rep. McGee supported studying the appropriate size of the state's rainy day funds.

Sen. Hillyard cautioned that the state's rainy day funds should not be allowed to grow too large because the funds contain tax money and should be returned to taxpayers if the money is not needed.

Dr. Cornia commented that withdrawals from rainy day funds should be made only when absolutely necessary.

Mr. Ball said that to recover the lost revenue due to the economic recession of 2001 and 2002, the state rainy day fund would have needed a balance equal to 20 percent of the General Fund. However, at that 2001-2002 time period, the rainy day fund only had a balance of three percent of the General Fund.

Mr. Barusch said the size of the rainy day fund may not be the proper question to ask. He suggested setting a target education budget for the next 10 years so that the state's public education system is not harmed by revenue shortfalls.

Dr. Cornia said the first consideration in the rainy day fund study should be responding to volatility in the state's revenue sources. He suggested that the Office of the Legislative Fiscal Analyst be involved with this study.

Dr. Ray Nelson, Brigham Young University, agreed with Mr. Barusch and Dr. Cornia's comments.

Rep. Harper suggested forming a working group to study this issue.

Rep. Dougall spoke in support of creating a working group to study the rainy day funds. He noted that government collects taxes regardless of the volatility of the revenue source, while businesses cannot force customers to pay for their products, and therefore are more concerned with volatility. He said that is the ugly nature of government.

Mr. Dean explained that the study of reducing the volatility of the income tax can be continued. He said the sales and use tax is less volatile than the state's former income tax system and that the sales and use tax can be studied to determine the sources of volatility and to reduce volatility where possible.

Chair Prescott turned the chair to Mr. Crapo.

MOTION: Rep. Dougall moved to create a working group to study the state's rainy day funds. The motion passed unanimously with Mr. Prescott absent for the vote.

Members of the working group will include Rep. Harper, as chair, Sen. Goodfellow, Sen. Hillyard, and Dr. Cornia.

4. Other Items / Adjourn

MOTION: Ms. Howell moved to adjourn the meeting. The motion passed unanimously with Mr. Prescott absent for the vote.

Vice Chair Crapo adjourned the meeting at 3:05 p.m.